

DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Water Protection Bureau

PROGRAMMATIC REVIEW / ENVIRONMENTAL ASSESSMENT

Name of Project: General Permit for Concentrated Animal Feeding Operations

Type of Project: Re-issuance of a General Permit

Location of Project: Statewide

City/Town: Statewide

County: Statewide

Description of Project: (Summary of Proposed Action):

The Montana Department of Environmental Quality (Department) is proposing to re-issue the Montana Pollutant Discharge Elimination System (MPDES) *General Permit for Concentrated Animal Feeding Operations* – Permit Number MTG010000 (hereafter referred to as the “CAFO GP”). The CAFO GP is a general discharge permit for discharges of wastes from concentrated animal feeding operations (CAFOs) as defined in 40 CFR 122.23 (July 1, 2004 edition) to state waters as defined in 75-5-103(29), MCA of the Montana Water Quality Act.

The previous CAFO GP was issued by the Department, effective August 15, 2000. The August 15, 2000 permit expired at midnight on July 31, 2005, at which time coverage under the August 15, 2000 permit was administratively extended for those facilities who had previously been covered, and who had applied for renewed coverage under the CAFO GP according to the requirements in the August 15, 2000 permit. Additionally, a small number of owners and operators of new and/or previously unpermitted facilities were issued authorizations to discharge under the August 15, 2000 General Permit, pending the reissuance of a new permit.

Owners or operators of Montana animal feeding operations that meet the definition of a CAFO as defined at 40 CFR 122.23 or are designated as described at 40 CFR 122.23 are eligible for coverage under the CAFO GP. 40 CFR 122.23 is adopted by reference in 17.30.1330 of the Administrative Rules of Montana (ARM), as required by the Montana legislature in the Montana Water Quality Act (see 75-5-802 of the Montana Code Annotated, or MCA).

Pursuant to 75-5-802 of the MCA, an operation that meets the definition of a CAFO at 40 CFR 122.23, and also meets the requirements of 40 CFR, Part 412, must be authorized by the Department under a general permit, unless, if upon review of an application for a general permit authorization for a CAFO production area, the Department discovers site-specific information that indicates that a general permit authorization is not sufficiently protective of water quality, in which case the Department may require an individual permit. The procedure(s) for obtaining coverage under the CAFO GP are outlined in the CAFO GP.

The CAFO GP requires permittees to develop a nutrient management plan (NMP), using the Department’s template titled “Form NMP.” Form NMP is included as Appendix A of the CAFO GP,

and therefore is included in the analysis for this programmatic environmental assessment. Form NMP specifies how a site-specific NMP is to be created, and therefore determines what terms and conditions it must include. It is the Department's position that the completed Form NMPs submitted by permit applicants will not need to be included in environmental assessments completed for individual authorizations under the CAFO GP.

After a permit applicant submits a complete Form NMP to the Department, the applicant's completed Form NMP will be posted on the Department's website for public comment. As the Department formulates its final response, it will consider all of the comments it receives. However, the Department does not intend to prepare a "response to comments" document.

The permittee is required to submit an updated Form NMP if there are any significant changes in the operation that render information provided in the permittee's NMP either incomplete or obsolete. Such submittals would generally not trigger the need for additional review under MEPA, the need to reopen the public comment period, or the need to submit a permit modification fee.

The Department does not intend to prepare Environmental Assessments for authorizations that meet both of the following conditions:

- The permittee currently has coverage under the August 15, 2000 CAFO General Permit; and
- The permittee is not proposing to create additional ground disturbance, construct buildings, structures or pens, or otherwise create new impacts to the physical or human environments in conjunction with receiving an authorization under the CAFO GP.

In all other instances, the Department intends to prepare an Environmental Assessment for authorization under the CAFO GP.

The CAFO GP will be valid for a period of 5 years from its effective date. Length of coverage under the CAFO GP may, therefore, vary from one CAFO to the next, depending upon when in the five year permit life the owner/operator of the CAFO first obtains permit coverage.

There are currently 90 facilities proposed for coverage under the CAFO GP. The operations include cow-calf operations, feedlots for cattle, sheep and horses, sale and shipping yards, dairies, and hog and poultry facilities. The total confinement area is approximately 1,500 acres. Waste is typically removed annually from dry lot operations and then land-applied as solids with facility-owned or contracted manure-spreading equipment. Liquid wastes are stored in retention basins or holding tanks. Basins are either earthen, clay, or synthetically lined. Holding tanks are typically made of concrete, or of glass fused to steel. Liquids are typically surface-applied by applicator tank trucks, injected into the subsoil with tractor-drawn toolbars or piped through irrigation delivery systems after solids separation. The total retention capacity of the 90 operations is approximately 300 million gallons.

The Department believes that the 90 CAFOs that have submitted applications are a portion of the total number of operations within the state that meet the point source description of a CAFO. Voluntary applications and water quality complaint investigations are expected to generate from five to 10 applications during each of the five years of the permit term. The Department is currently refining a statewide inventory of all CAFOs that may need permit coverage but do not currently have permit coverage. Preliminary estimates suggest that this may identify as many as 300 additional facilities that would be eligible for coverage under the CAFO GP.

The effluent limitations and other terms and conditions included in the CAFO GP are based on the effluent limitations guidelines (ELGs) established at 40 CFR 412 and the Montana Technical Standards for Concentrated Animal Feeding Operations found in Department Circular DEQ 9 (February 2006). For each facility permitted under the CAFO GP, the terms and conditions will also include the implementation of the facility's site-specific NMP. Pursuant to 75-5-802(3), if, upon review of an application for a general permit authorization for a concentrated animal feeding operation production area, the Department discovers site-specific information that indicates that a general permit authorization is not sufficiently protective of water quality, the Department shall require an individual permit.

This environmental assessment has been prepared for the project described above, pursuant to the Montana Environmental Policy Act (MEPA). This environmental assessment is based on the assumption that permittees will be required to comply with the terms and conditions of the CAFO GP. The CAFO GP prohibits all discharges of waste to state waters, except in very rare instances. The CAFO GP allows the Department to deny an authorization under the CAFO GP if a facility appears to be unable to comply with state water quality standards. The CAFO GP also contains a reopener provision, allowing the Department to reopen and modify an authorization under the CAFO GP if it is found that water quality standards in the receiving stream or ground water are exceeded for parameters included in the permit. The CAFO GP sets forth substantial administrative, civil, and criminal penalties for violations of permit conditions, including termination of permit coverage, payment of penalties, and imprisonment. Pursuant to 75-5-803(2), MCA of the Montana Water Quality Act, a programmatic environmental impact statement is not required for issuance of the CAFO GP.

Agency Action and Applicable Regulations: The proposed action is to re-issue a MPDES, CAFO General Discharge Permit. The CAFO GP is being issued by the Department, pursuant to its duties under 75-5-402 and 75-5-802, MCA of the Montana Water Quality Act. Applicable regulations include those found in Title 75, Chapter 5 of the Montana Code Annotated and those found in Title 17, Chapter 30 of the Administrative Rules of Montana, including all federal and state regulations, standards, and guidelines incorporated by reference therein.

Summary of Issues: Discharges to state waters may have the potential to adversely impact water quality, as well as flora and fauna, and the human environment. The CAFO GP prohibits all discharges of waste to state waters, except in very rare instances. It is the Department's position that these limitations and standards, in conjunction with the other terms and conditions of the CAFO GP, represent the practices and prohibitions necessary in order for an eligible CAFO to prevent discharges of wastes from the production area, to state waters, that would cause an exceedence of a Montana water quality standard. The CAFO GP allows the Department to deny an authorization under the CAFO GP if a facility appears to be unable to comply with state water quality standards. The CAFO GP also contains a reopener provision, allowing the Department to reopen and modify the CAFO GP if it is found that water quality standards in the receiving stream or ground water are exceeded for parameters included in the permit. Authorizations under the CAFO GP will only be issued after the Department has conducted a thorough review of required maps, records, descriptions and proposals submitted as part of the permit application process. The use of a general permit for discharges from CAFOs is allowed/called for in 75-5-802, MCA. General permits provide a more streamlined, cost-effective way to administer the MPDES permitting program, while still ensuring the high degree of water quality protection mandated by state law. Issuance of the

CAFO GP will put in place a regulatory mechanism for protecting the natural and human resources of the State of Montana from adverse impacts associated with the operation of CAFOs. Without the CAFO GP, the Department would lack an essential, legally mandated tool in its efforts to protect the quality of Montana's state waters.

Affected Environment & Impacts of the Proposed Project:

Y = Impacts may occur (explain under Potential Impacts). Include frequency, duration (long or short term), magnitude, and context for any significant impacts identified. Reference other permit analyses when appropriate (ex: statement of basis). Address significant impacts related to substantive issues and concerns. Identify reasonable feasible mitigation measures (before and after) where significant impacts cannot be avoided and note any irreversible or irretrievable impacts. Include background information on affected environment if necessary to discussion.

N = Not present or No Impact will likely occur. Use negative declarations where appropriate (wetlands, T&E, Cultural Resources).

IMPACTS ON THE PHYSICAL ENVIRONMENT	
RESOURCE	[Y/N] POTENTIAL IMPACTS AND MITIGATION MEASURES
1. GEOLOGY AND SOIL QUALITY, STABILITY AND MOISTURE: Are soils present which are fragile, erosive, susceptible to compaction, or unstable? Are there unusual or unstable geologic features? Are there special reclamation considerations?	[N] No negative impacts are expected. The CAFO GP includes the requirement to develop and implement a nutrient management plan. For facilities disposing of wastes via land application, the nutrient management plan specifies the amount, form and timing of land application events. Wastes are required to be applied in accordance with agronomic rates. Such land applications can improve soil tilth and fertility, promoting vigorous plant growth and soil stabilization. Authorization under the CAFO GP doesn't prohibit or encourage impacts to unusual or unstable geologic features. Reclamation is generally not planned for CAFOs. When permit applicants propose new ground disturbance in conjunction with authorization under the CAFO GP, the Department will conduct a site-specific environmental assessment (EA). As part of the assessment process, the Department will conduct a site-specific evaluation of the potential for negative impacts to geology and soil quality, stability and moisture.
2. WATER QUALITY, QUANTITY AND DISTRIBUTION: Are important surface or groundwater resources present? Is there potential for violation of ambient water quality standards, drinking water maximum contaminant levels, or degradation of water quality?	[N] No negative impacts are expected. The CAFO GP is a pro-active tool for limiting negative impacts on water quality as a result of CAFO operations. The CAFO GP prohibits all discharges of waste to state waters, except in very rare instances. The CAFO GP allows the Department to deny an authorization under the CAFO GP if a facility appears to be unable to comply with state water quality standards. The CAFO GP also contains a reopener provision, allowing the Department to reopen and modify the CAFO GP if it is found that water quality standards in the receiving stream or ground water are exceeded for parameters included in the permit. The CAFO GP requires permittees to implement best management practices designed to greatly decrease the likelihood that any discharge will occur. The terms and conditions of the CAFO GP are protective of water quality in all state waters, including both surface and ground waters.
3. AIR QUALITY: Will pollutants or particulate be produced? Is the project influenced by air quality regulations or zones (Class I airshed)?	[N] No negative impacts are expected. The terms and conditions of the CAFO GP require proper storage and disposal of animal wastes and dead animals, thereby potentially reducing emissions of pollutants and particulate matter that could negatively affect air quality. In general, however, the CAFO GP does not directly regulate effects on air quality parameters.

IMPACTS ON THE PHYSICAL ENVIRONMENT	
RESOURCE	[Y/N] POTENTIAL IMPACTS AND MITIGATION MEASURES
4. VEGETATION COVER, QUANTITY AND QUALITY: Will vegetative communities be significantly impacted? Are any rare plants or cover types present?	[N] No negative impacts are expected. Land application of animal wastes, when carried out in accordance with the terms and conditions of the CAFO GP, can have a positive effect on plant growth. When permit applicants propose new ground disturbance in conjunction with authorization under the CAFO GP, the Department will conduct a site-specific environmental assessment (EA). As part of the assessment process, the Department will conduct a site-specific evaluation of the potential for negative impacts to rare plants and cover types.
5. TERRESTRIAL, AVIAN AND AQUATIC LIFE AND HABITATS: Is there substantial use of the area by important wildlife, birds or fish?	[N] The majority of the CAFOs permitted under the previous CAFO general discharge permit were located on previously disturbed land in predominantly agricultural areas. This trend is expected to continue as additional CAFOs seek and obtain coverage under the CAFO GP. Generally speaking, agricultural lands are not substantially used by important wildlife, birds or fish. The terms and conditions of the CAFO GP expressly prohibit discharges of wastes to state waters that could result in harmful effects on wildlife and their habitat. When permit applicants propose new ground disturbance in conjunction with authorization under the CAFO GP, the Department will conduct a site-specific environmental assessment (EA). As part of the assessment process, the Department will conduct a site-specific evaluation of the potential for negative impacts to terrestrial, avian and aquatic life and habitats.
6. UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES: Are any federally listed threatened or endangered species or identified habitat present? Any wetlands? Species of special concern?	[N] No negative impacts are expected. The terms and conditions of the CAFO GP require the implementation of specific practices designed to prevent discharges of wastes that could potentially harm unique, endangered, fragile or limited environmental resources. When permit applicants propose new ground disturbance in conjunction with authorization under the CAFO GP, the Department will conduct a site-specific environmental assessment (EA). As part of the assessment process, the Department will conduct a site-specific evaluation of the potential for negative impacts to unique, endangered, fragile or limited environmental resources. If, during the operation and/or construction of a CAFO, a permittee discovers the presence of a federally listed threatened or endangered species, the permittee is urged to contact the Montana Natural Heritage Program or the Montana Department of Fish, Wildlife and Parks
7. HISTORICAL AND ARCHAEOLOGICAL SITES: Are any historical, archaeological or paleontological resources present?	[N] No negative impacts are expected. The terms and conditions of the CAFO GP do not directly regulate impacts to historical and archaeological sites. When permit applicants propose new ground disturbance in conjunction with authorization under the CAFO GP, the Department will conduct a site-specific environmental assessment (EA). As part of the assessment process, the Department will conduct a site-specific evaluation of the potential for negative impacts to historical and archaeological sites. If, during the operation and/or construction of a CAFO, a permittee discovers the presence of historical or archaeological sites or materials, the permittee is urged to contact the State Historic Preservation Office.
8. AESTHETICS: Is the project on a prominent topographic feature? Will it be visible from populated or scenic areas? Will there be excessive noise or light?	[N] No negative impacts are expected. The terms and conditions of the CAFO GP do not directly regulate impacts to aesthetics. When permit applicants propose new ground disturbance in conjunction with authorization under the CAFO GP, the Department will conduct a site-specific environmental assessment (EA). As part of the assessment process, the Department will conduct a site-specific evaluation of the potential for negative impacts to aesthetics. Also, the majority of CAFOs eligible for coverage under the CAFO GP are expected to be located in predominantly rural, agricultural areas where they would not present an appreciably different aesthetic than what already exists.

IMPACTS ON THE PHYSICAL ENVIRONMENT	
RESOURCE	[Y/N] POTENTIAL IMPACTS AND MITIGATION MEASURES
9. DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AIR OR ENERGY: Will the project use resources that are limited in the area? Are there other activities nearby that will affect the project? Will new or upgraded powerline or other energy source be needed)	[N] No negative impacts are expected. The terms and conditions of the CAFO GP do not, in and of themselves, cause or require significant demands on environmental resources of land, water, air or energy. The construction and operation of new CAFOs and/or new structures may increase demands on environmental resources. However, existing resources are expected to be sufficient to meet the demands, and the overall increase in demand is expected to be sufficiently limited in extent as to not cause any significant impacts. When permit applicants propose new ground disturbance or construction projects in conjunction with authorization under the CAFO GP, the Department will conduct a site-specific environmental assessment (EA). As part of the assessment process, the Department will conduct a site-specific evaluation of the potential for impacts to demands on environmental resources of land, water, air, and energy.
10. IMPACTS ON OTHER ENVIRONMENTAL RESOURCES: Are there other activities nearby that will affect the project?	[N] No negative impacts are expected. The CAFO GP is a pro-active tool for limiting negative impacts to water quality and the environmental resources that depend upon good water quality for survival. The CAFO GP prohibits all discharges of waste to state waters, except in very rare instances. The CAFO GP requires permittees to implement best management practices designed to greatly decrease the likelihood that any discharge will occur. The CAFO GP allows the Department to deny an authorization under the CAFO GP if a facility appears to be unable to comply with state water quality standards. The CAFO GP also contains a reopener provision, allowing the Department to reopen and modify the CAFO GP if it is found that water quality standards in the receiving stream or ground water are exceeded for parameters included in the permit. When permit applicants propose new ground disturbance in conjunction with authorization under the CAFO GP, the Department will conduct a site-specific environmental assessment (EA). As part of the assessment process, the Department will conduct a site-specific evaluation of the potential for negative impacts on environmental resources.

IMPACTS ON THE HUMAN ENVIRONMENT	
RESOURCE	[Y/N] POTENTIAL IMPACTS AND MITIGATION MEASURES
11. HUMAN HEALTH AND SAFETY: Will this project add to health and safety risks in the area?	[N] No negative impacts are expected. Human health and safety is dependent upon the availability of good quality water. The CAFO GP is a pro-active tool for limiting negative impacts on water quality as a result of CAFO operations. The CAFO GP prohibits all discharges of waste to state waters, except in very rare instances. The CAFO GP allows the Department to deny an authorization under the CAFO GP if a facility appears to be unable to comply with state water quality standards. The CAFO GP also contains a reopener provision, allowing the Department to reopen and modify the CAFO GP if it is found that water quality standards in the receiving stream or ground water are exceeded for parameters included in the permit. The CAFO GP requires permittees to implement best management practices designed to greatly decrease the likelihood that any discharge will occur. The terms and conditions of the CAFO GP are protective of water quality in all state waters, including both surface and ground waters. By protecting the quality of state waters, the terms and conditions of the CAFO GP serve to protect the health and safety of the people who use state waters for drinking, industry and recreation.
12. INDUSTRIAL, COMMERCIAL AND AGRICULTURAL ACTIVITIES AND PRODUCTION: Will the project add to or alter these activities?	[N] No negative impacts are expected. Under the CAFO GP, permittees will be required to develop and implement practices to protect the natural resources that industry, commerce and agriculture depend upon in order to maintain existing levels of production and allow for future expansion. Permittees will be required to implement sound, basic, recordkeeping and self-monitoring practices designed to protect water quality. These practices are expected to prevent many costly environmental problems that could negatively affect industrial, commercial and agricultural activities and production.
13. QUANTITY AND DISTRIBUTION OF EMPLOYMENT: Will the project create, move or eliminate jobs? If so, estimated number.	[N] No negative impacts are expected. The reissuance of a CAFO GP is not expected to create a new industry, move jobs, or decrease/eliminate employment opportunities.
14. LOCAL AND STATE TAX BASE AND TAX REVENUES: Will the project create or eliminate tax revenue?	[N] No negative impacts are expected. The terms and conditions of the CAFO GP require permittees to implement best management practices, monitoring practices and recordkeeping practices designed to protect water quality. Authorizations under the CAFO GP to new and expanding facilities may lead to increases in agricultural production levels, thereby causing an increase in the state and local tax base and tax revenues. When permit applicants propose new ground disturbance in conjunction with authorization under the CAFO GP, the Department will conduct a site-specific environmental assessment (EA). As part of the assessment process, the Department will conduct a site-specific evaluation of the potential for negative impacts on local and state tax bases and tax revenues.
15. DEMAND FOR GOVERNMENT SERVICES: Will substantial traffic be added to existing roads? Will other services (fire protection, police, schools, etc.) be needed?	[N] No negative impacts are expected. Existing resources are expected to be adequate.
16. LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS: Are there State, County, City, USFS, BLM, Tribal, etc. zoning or management plans in effect?	[N] No negative impacts are expected. When permit applicants propose new ground disturbance in conjunction with authorization under the CAFO GP, the Department will conduct a site-specific environmental assessment (EA). As part of the assessment process, the Department will conduct a site-specific evaluation of the potential for negative impacts on locally adopted environmental plans and goals.

17. ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES: Are wilderness or recreational areas nearby or accessed through this tract? Is there recreational potential within the tract?	[N] No negative impacts are expected. The terms and conditions of the CAFO GP require permittees to implement practices to protect the quality of state waters, including those used for access to recreational and wilderness activities. Authorization to discharge under the CAFO GP may be denied if the CAFO will be located in an area of unique ecological or recreational significance. Such determination must be based upon considerations of Montana stream classifications adopted under <u>75-5-301</u> , MCA, impacts on fishery resources, local conditions at proposed discharge sites, and designations of wilderness areas under 16 USC 1132 or of wild and scenic rivers under 16 USC 1274. When permit applicants propose new ground disturbance in conjunction with authorization under the CAFO GP, the Department will conduct a site-specific environmental assessment (EA). As part of the assessment process, the Department will conduct a site-specific evaluation of the potential for negative impacts on access to and the quality of recreational and wilderness activities.
18. DENSITY AND DISTRIBUTION OF POPULATION AND HOUSING: Will the project add to the population and require additional housing?	[N] No negative impacts are expected. Adoption and implementation of the CAFO GP is not expected to have an effect on the density and distribution of population and housing. When permit applicants propose new ground disturbance in conjunction with authorization under the CAFO GP, the Department will conduct a site-specific environmental assessment (EA). As part of the assessment process, the Department will conduct a site-specific evaluation of the potential for negative impacts on the density and distribution of population and housing.
19. SOCIAL STRUCTURES AND MORES: Is some disruption of native or traditional lifestyles or communities possible?	[N] No negative impacts are expected. The terms and conditions of the CAFO GP require permittees to implement practices in order to protect the quality of state waters. This approach helps to ensure the sustainability of local lifestyles and communities who depend on the availability of clean water for their survival.
20. CULTURAL UNIQUENESS AND DIVERSITY: Will the action cause a shift in some unique quality of the area?	[N] No negative impacts are expected. The terms and conditions of the CAFO GP require permittees to implement practices in order to protect the quality of state waters. This approach helps to ensure the sustainability of local cultures who depend on the availability of clean water for their survival.
21. OTHER APPROPRIATE SOCIAL AND ECONOMIC CIRCUMSTANCES:	[N] No negative impacts are expected as a result of the proposed action.
22(a). PRIVATE PROPERTY IMPACTS: Are we regulating the use of private property under a regulatory statute adopted pursuant to the police power of the state? (Property management, grants of financial assistance, and the exercise of the power of eminent domain are not within this category.) If not, no further analysis is required.	[Y] The CAFO GP imposes an obligation on the facility to prevent adverse effects to state waters, which constitutes a regulation of private property under the police powers of the state. The permit implements the Water Quality Act, Title 75, Chapter 5, MCA.
22(b). PRIVATE PROPERTY IMPACTS: Is the agency proposing to deny the application or condition the approval in a way that restricts the use of the regulated person's private property? If not, no further analysis is required.	[N] The permit conditions do not interfere with the permittee's ability to use its private property. The conditions do require the permittee to implement design and management practices to prevent adverse effects to state waters.
22(c). PRIVATE PROPERTY IMPACTS: If the answer to 21(b) is affirmative, does the agency have legal discretion to impose or not impose the proposed restriction or discretion as to how the restriction will be imposed? If not, no further analysis is required. If so, the	[NA]

<p>agency must determine if there are alternatives that would reduce, minimize or eliminate the restriction on the use of private property, and analyze such alternatives. The agency must disclose the potential costs of identified restrictions.</p>	
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23. Description of and Impacts of other Alternatives Considered:

- A. No Action: Under the 'No Action' alternative the Department would not re-issue the MPDES, CAFO General Permit. Pursuant to 75-5-802(2), MCA and subject to the provisions of 75-5-802(3), MCA, the Department is required to authorize CAFOs that meet the requirements of 40 CFR, part 412 under a general permit. In the absence of a CAFO general permit, the Department would be forced to create and issue individual permits for those owners and operators seeking MPDES discharge permit coverage. The current permit fee structure enacted by the Montana legislature would not allow the Department to collect sufficient funds to cover the increased cost of the comparatively labor-intensive, individual permit process. Consequently, the Department would be unable to meet its legal obligation to issue permits to discharge wastes to state waters. Failure to meet this obligation would effectively limit the Department's ability to prevent harmful discharges to enforcement actions after the fact. Such enforcement actions would have a deterrent effect on future discharges, but would not be as effective as permit coverage in minimizing pollution in the first place. The proposed action will enable the Department to meet its legal obligations under the Montana Water Quality Act. The proposed action will have environmental benefits compared to not having a MPDES, CAFO General Permit and thereby leaving many facilities unpermitted.
 - B. Approval with modification: The Department has not identified any modifications that need to be made to the CAFO GP in order to re-issue the CAFO GP.
24. Summary of Magnitude and Significance of Potential Impacts: Impacts were assessed with the assumption that facilities who are granted authorizations to discharge under the CAFO GP would comply with the terms and conditions of the CAFO GP. The CAFO GP specifically prohibits significant adverse impacts to state surface and ground waters. The application and review process set forth in the CAFO GP and in other applicable state regulations helps to ensure that all facilities that obtain coverage under the CAFO GP are capable of meeting the terms and conditions of the CAFO GP. Therefore, potential impacts of re-issuing the CAFO GP are not of sufficient magnitude so as to be considered significant.
25. Cumulative Effects: The re-issuance of the CAFO GP would not have cumulative negative effects because the CAFO GP prohibits all discharges of waste to state waters, except in very rare instances, and the CAFO GP allows the Department to deny an authorization under the CAFO GP if a facility appears to be unable to comply with state water quality standards. The CAFO GP also contains a reopener provision, allowing the Department to reopen and modify the CAFO GP if it is found that water quality standards in the receiving stream or ground water are exceeded for parameters included in the permit.

26. Preferred Action Alternative and Rationale: The preferred action is to approve the re-issuance of the MPDES, CAFO General Permit (CAFO GP). Re-issuance of the CAFO GP will enable the Department to meet its legal obligation under 75-5-402, MCA of the Montana Water Quality Act, to issue permits for discharges of wastes to state waters.

Recommendation for Further Environmental Analysis:

☐ EIS ☐ More Detailed EA ☒ No Further Analysis

Rationale for Recommendation: No significant impacts are expected from the proposed action.

27. Public Involvement: This EA will be made available for public comment for a period of 45 days, beginning INSERT DATE, and ending at the close of business on INSERT DATE. Comments may be submitted EXPLAIN HOW AND WHERE. The comment period will be public noticed in the following papers throughout the comment period. INSERT PAPER NAMES. Comments will also be received in written and/or oral format during the public hearings described below: IDENTIFY HEARING DATES, TIMES, LOCATIONS. Pursuant to ARM 17.30.1372, the Department will provide public notice of each hearing for a period of 30 days prior to the date of the hearing. In accordance with the procedures set forth in ARM 17.30.1377, the Department will respond to comments it receives during the public comment period and in conjunction with the public hearings.

28. Persons and agencies consulted in the preparation of this analysis:

Montana Department of Environmental Quality, Water Protection Bureau Staff (various)
Montana State Legislature, Legislative Services Division (Montana Code Annotated 2005)
Montana Secretary of State, Administrative Rules and Management Services Division
(Administrative Rules of Montana – Updated through 12/31/06)

EA Checklist Prepared By:

Mark Ockey, Water Quality Specialist
MDEQ, Water Protection Bureau

Date

Approved By:

Bonnie Lovelace, Chief
MDEQ, Water Protection Bureau

Date